

**BEFORE THE BOARD
OF
PATENT APPEALS AND INTERFERENCES**

Appellant: **Guillermo Silva**

Date: June 4, 2007

Application No. **10/765,193**

Art Unit: **1761**

Filing Date: **January 28, 2004**

Examiner: **Helen F. Pratt**

Attorney Docket No. **060014**

Title: **COCONUT BEVERAGE AND METHOD OF PRODUCING THE
SAME**

APPELLANT'S REPLY TO EXAMINER'S SUPPLEMENTAL ANSWER

Dear Sirs/Madams:

In response to the recent Supplemental Examiner's Answer, please consider the following Applicant's Reply with regard to the above-referenced application as follows.

Neither Leaflet, Tayag, nor Beyerinck, singly or combined, teach how to produce Applicant's invention without having a coconut in its raw natural state.

Without Applicant's invention, a person would not have the ability to produce a rich creamy coconut mixture unless they had fresh coconuts readily available. Specifically, to convert coconut milk into a rich creamy coconut mixture, a person would have to have young coconut meat, but a person cannot add young coconut meat if they do not have fresh coconuts

readily available. Applicant claims a rich creamy coconut mixture that can be made without having the raw material in its natural stage, the young coconut meat. Applicant's invention is distinguishable and innovative because many geographical areas do not have coconut trees and therefore people in those areas cannot enjoy a coconut mixture having the characteristics as that of the Applicant's claimed invention.

The Applicant stipulates that Leaflet discloses that it is known to make a beverage from raw green coconut. However, to practice Leaflet's beverage, you must have raw green coconuts on hand.

The Applicant also stipulates that Tayag (PH 26114A) discloses that the powdered coconut milk is made by spray drying with maltodextrin and sodium caseinate. **However, the Applicant does not agree that this mixture is considered to be a coconut *cream* powder, as the Examiner does. Tayag specifically teaches a powdered coconut milk that has a milk-like consistency.**

The Applicant states the Examiner erroneously concludes that Applicant "adds water and sugar to a powder to rehydrate it and to sweeten it."

The Examiner states "Leaflet No. 8, under Green Coconut Drink discloses that it is well known to make a beverage with green coconut meat. All the ingredients of the claims are known, as in *In re Levin*, supra, "there is nothing patentable unless the applicant by a proper showing further establishes a coaction or cooperative relationship between the selected ingredients, which produces a new, unexpected, and useful

function". However, as mentioned above, how can a person make a coconut drink if they have no green coconut meat as taught in Leaflet No. 8?

It is precisely because of the coaction / cooperative relationship between the selected ingredients, that the Applicant produces a new, unexpected, and useful function. Without Applicant's invention, a person would not have the ability to produce a rich creamy coconut mixture unless they had fresh coconuts readily available.

The Examiner claims, "Nothing inventive is seen in adding these ingredients together. Fruit beverages are generally made from water, fruit and sugar. Each ingredient is used for its known function." Applicant agrees that a fruit beverage can be made from water, fruit and sugar. However, the Applicant is not claiming a fruit beverage. The Applicant is claiming a much narrower drink. It is a rich creamy coconut mixture consisting of specific ingredients that must be prepared in a particular fashion (as claimed) in order to obtain a "beverage" that closely resembles a rich creamy coconut mixture produced from fresh coconuts readily available.

The Examiner states that the Applicant is making a mixture of known ingredients, and places a lot of emphasis on that point. However, the coaction / cooperative relationship between the selected ingredients, produces a new, unexpected, and useful function.

Because of the Applicant's invention, a person in Iowa (or any other place in the world not having fresh coconuts) can enjoy a "beverage" that

closely resembles a rich creamy coconut mixture produced from fresh coconuts readily available.

Without Applicant's invention, a person in Iowa (or any other place in the world not having fresh coconuts) **could not** enjoy a "beverage" that closely resembles a rich creamy coconut mixture produced from fresh coconuts readily available, and would have to settle for canned coconut milk.

The Examiner has failed to produce any prior art that teaches how a person, not having a coconut in its raw natural state, can have a rich creamy coconut mixture as Applicant does. Applicant respectfully submits that neither Leaflet, Tayag, nor Beyerinck, singly or combined, teach or lead someone skilled in the art to the invention claimed by Applicant.

Applicant believes his application is allowable and ready to be passed to publication and requests an early favorable action from the Board of Appeals.

Respectfully submitted,
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